IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR.JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI.

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

MFA.No. 1227 of 2000(A)

OPMV.191/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, N. PARAVUR

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APPELLANT/PETITIONER:

SHAJU, S/O.POULOSE,
AKKUNNATH HOUSE,
VALIYAPALLAMTHURUTHU KARA,
CHANDAMANGALAM P.O.

BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)

RESPONDENTS/RESPONDENTS:

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1. PAULSON, S/O.AUSE,
   MANALIPARAMBIL VEEDU, GOTHURUTHU KARA,
   CHENDAMANGALAM VILLAGE.

2. O.A.THOMSON, S/O. ANSO,
   OLATTUPURATH HOUSE,
   GOTHURUTH,
   CHENDAMANGALAM VILLAGE.

3. M/S.ORIENTAL INSURANCE COMPANY LTD.
   COCHIN.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & V.GIRI JJ.

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M.F.A.No.1227 of 2000

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Dated this the 21st day of August, 2007

J U D G M E N T

Koshy, J.

An employee travelling in a stage carriage met with an accident on 11-12-1993. He filed application for compensation alleging that the driver of the bus was negligent which resulted in the accident. The bus was insured with the third respondent insurance company. The Tribunal calculated total amount of compensation as Rs.51,000/-. But after finding that there is contributory negligence the Tribunal awarded compensation of Rs.25,500/- with 12% interest from the date of application till deposit. The application was filed in 1994 and the award was passed only in the year 2000. The contention of the insurance company was that, the claimant was negligent. He being an employee is entitled for compensation under the Workmen's Compensation Act. The accident occurred prior to the Amendment of Workmen's Compensation Act. If the amount of compensation is calculated under the Workmen's Compensation Act, the amount will be much lower than that was awarded by the Tribunal. Apart from that, it cannot be stated that the finding of contributory negligence

is not correct as he was thrown out from the bus because he was standing on the foot board. Travelling on foot board is not allowed. In the above circumstances, we see no merit in the appeal filed by the claimant and it is dismissed.

J.B. KOSHY, JUDGE.

V.GIRI, JUDGE.

MS